

The Honorable Timothy W. Dore
Chapter 11
Location: Seattle CR 8106
Hearing Date: June 9, 2023
Hearing Time: 11:00 a.m. (PT)

UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

In re:

NOVUSON SURGICAL, INC.,

Debtor.

NO. 23-10728-TWD

STATUS REPORT FOR 11 U.S.C. § 1188(A)
STATUS CONFERENCE

Novuson Surgical, Inc. (“**Novuson**” or the “**Debtor**”), the debtor-in-possession in this Chapter 11 case, by and through its undersigned counsel, submits this Status Report for 11 U.S.C. § 1188(a) Status Conference (the “**Status Report**”) pursuant to 11 U.S.C. § 1188(c) and this Court’s Order Setting Status Conference and Deadline to File Claims (the “**Scheduling Order**”) [Docket No. 14].

BACKGROUND AND NATURE OF THE CASE

1. Novuson is an innovative medical device company which was founded in 2014 and is based in Bothell, Washington. Though primarily a research and development company, Novuson is continuing to operate with the near-term goal of completing regulatory filings, finalizing commercial development of its products and platforms, conducting validation and

STATUS REPORT FOR 11 U.S.C. § 1188(A) STATUS
CONFERENCE - 1

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1 verification studies, and obtaining regulatory clearance from the Food and Drug Administration
2 (“**FDA**”).

3 2. In early 2022, certain of Novuson’s investors/creditors (the “**Petitioning**
4 **Noteholders**”) filed a Complaint for breach of contract in the King County Superior Court. *See*
5 King County Case No. 22-2-00975-6 SEA (the “**Noteholder Case**”). At the conclusion of the
6 Noteholder Case, judgment was entered against Novuson, on or about October 10, 2022, in the
7 amount of approximately \$1.4 million. On March 21, 2023, after an application for the
8 appointment of a general receiver by the Petitioning Noteholders, the Superior Court granted the
9 petition and entered the Order Appointing General Receiver. *See* King County
10 Case No. 23- 2- 02424-9 SEA (the “**Receivership**”).

11 3. On April 21, 2023 (the “**Petition Date**”), Novuson filed its voluntary petition for
12 relief under Chapter 11, Subchapter V of the Bankruptcy Code (the “**Code**”) to prevent its assets
13 from being liquidated, and to preserve and maintain the value of the company as an operating
14 entity for the benefit of all creditors. The Debtor continues to operate and manage its affairs as
15 debtor-in-possession pursuant to 11 U.S.C. §§ 1182 and 1184 of the Code. Geoffrey Groshong has
16 been appointed as the Subchapter V Trustee, and has promptly engaged with Novuson’s principal,
17 Stuart B. Mitchell, and counsel.

18 4. In addition to the Petitioning Noteholders, whose claims have been reduced to
19 judgment, the Debtor’s major liabilities are to several convertible noteholders and investors. The
20 Debtor also accrued prepetition obligations over the course of the Receivership. The Debtor’s
21 primary assets are its technology and, specifically, the development and ultimate
22 commercialization of Direct Therapeutic Ultrasound (DTU), a surgical instrument platform for
23 coagulation and hemostatic control in surgical and trauma procedures.

1 **STATUS REPORT**

2 **A. Proofs of Claims**

3 5. On May 1, 2023, pursuant to the Scheduling Order, the Debtor filed a Notice of
4 Deadline to File Claims [Docket No. 18] establishing June 8, 2023 as the deadline for filing proofs
5 of claim or equity security interests.

6 **B. Employment of Professionals**

7 6. The Debtor has filed its applications seeking to employ bankruptcy counsel. On
8 May 4, 2023, Novuson filed an Application to Employ Cairncross & Hempelmann, P.S. as General
9 Bankruptcy Counsel [Docket No. 26]. An Order Authoring the Employment of Cairncross &
10 Hempelmann, P.S. as General Bankruptcy Counsel was entered on May 24, 2023 [Docket No. 55].
11 Novuson also anticipates filing an Application to Employ Michael Best & Friedrich LLP as
12 Bankruptcy and General Counsel.

13 7. The Debtor further anticipates seeking to employ, in the near term, (1) intellectual
14 property counsel and (2) professionals to assist in identifying project and funding sources for the
15 company's commercialization efforts.

16 **C. Cash Collateral**

17 8. The Debtor asserts that no creditor holds a perfected security interest in its assets,
18 including its cash proceeds of the prepetition collateral (the "**Cash Collateral**"). Nevertheless, out
19 of an abundance of caution, the Debtor filed an Emergency Motion for Interim Order
20 (1) Authorizing Use of Cash Collateral and (2) Setting a Final Hearing [Docket No. 33]. On
21 May 12, 2023, the Court entered an Interim Order (1) Authorizing Use of Cash Collateral and
22 (2) Setting a Final Hearing [Docket No. 45] authorizing Novuson to use Cash Collateral pursuant
23 to the submitted budget, pending a final hearing on June 9, 2023. On May 25, 2023, the Debtor
24 filed its Motion for Final Order Authorizing Use of Cash Collateral [Docket No. 56].
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1 **D. The Debtor's Efforts Toward a Consensual Plan**

2 9. Pursuant to 11 U.S.C. § 1189, the Debtor's deadline to file a Plan of Reorganization
3 (the "**Plan**") is July 20, 2023. Despite the Debtor's setbacks, the systems and technologies it is
4 developing remain promising and capable of commercialization. The Debtor currently projects to
5 have sufficient cash on hand to both (1) operate as a going concern through the pendency of this
6 case and (2) engage with new potential investors to commercialize the Debtor's DTU technology.

7 10. Novuson intends to undertake efforts needed to effectuate a consensual Plan
8 including, but not limited to, analyzing submitted proofs of claim, exploring additional investments
9 and revenue streams, determining the assumption or rejection of contracts in light to the benefit to
10 the estate, and discussing and negotiating Plan provisions with the company's creditors. Novuson
11 has already had preliminary Plan discussions with Mr. Groshong and will continue to engage with
12 Mr. Groshong throughout the Plan process, including seeking his assistance in brokering a
13 consensual Plan.

14 DATED this 26th day of May, 2023.

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16 CAIRNCROSS & HEMPELMANN, P.S.

17
18 /s/ Aditi Paranjpye

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